

Docket Item #9
SPECIAL USE PERMIT #2004-0026

Planning Commission Meeting
May 4, 2004

ISSUE: Consideration of a request for a special use permit to extend the hours of operation of an existing restaurant.

APPLICANT: DelNayeri Company LLC/a La Lucia
by Mehran Nayeri

LOCATION: 315 Madison Street

ZONE: CRMU-X/Commercial Residential Mixed Use

STAFF RECOMMENDATION: Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the permit conditions found in Section III of this report.

I. DISCUSSION

REQUEST

The applicant, DelNayeri Company LLC/a La Lucia, by Mehran Nayeri, requests special use permit approval to expand the hours of operation for an existing restaurant located at 315 Madison Street.

SITE DESCRIPTION

The subject property is one lot of record which encompasses most of an entire city block with approximately 250 feet of frontage on Madison and Montgomery Streets, and 362 feet of frontage along North Fairfax and North Royal Streets. The Montgomery Center is a commercial development of 92,395 square feet that includes personal service, retail and community service uses. It is surrounded by condominium developments.

CURRENT RESTAURANT CHARACTERISTICS

The applicant operates an Italian restaurant with 40 indoor and eight seasonal outdoor seats. Approximately 80 customers patronize the restaurant daily. The restaurant is operated by five to six employees. Trash generated by the restaurant is collected daily by a private contractor. Parking is regulated through the Montgomery Center development.

PROPOSED CHANGES TO THE RESTAURANT'S OPERATION

The applicant seeks permission to amend condition #8 to extend the hours of operation in the morning in order to serve breakfast and to be open on Sunday. Although the applicant has not requested to be open beyond 10:30 P.M. Monday through Thursday, staff recommends allowing the operation to be open until 11:30 P.M. Monday through Saturdays to provide flexibility for the applicant. The current and recommended hours of operation read as follows:

	<u>Current hours of operation</u>	<u>Proposed hours of operation</u>
Monday through Saturdays	10:30 A.M. to 10:00 P.M.	7:00 A.M. to 11:30 P.M.
Sundays	Closed	7:00 A.M. to 10:30 P.M.

No other changes are proposed to the operation of the restaurant.

Staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff found no violations of the special use permit.

SUP HISTORY

A restaurant/bakery has operated in this location since 1983. Conditions for the operation of a full-service restaurant with increased seats, outdoor seating and hours of operation were added over the years. From 1998 to 2001, the restaurant was operated as Flatbreads. In December 2003, an administrative change of ownership was granted by the Director of Planning and Zoning allowing the ownership of the restaurant to change from Alborz Inc. to DelNayeri Company LLC, converting the restaurant into “a La Lucia”.

ZONING / MASTER PLAN

The subject property is located in the CRMU-X/Commercial Residential Mixed Use zone (Old Town North). Section 5-403(V) of the zoning ordinance allows a restaurant in the CRMU-X zone only with a special use permit. The Old Town North small area plan chapter of the Master Plan anticipates redevelopment of the site and designates the property for commercial residential mixed use.

II. STAFF ANALYSIS

Staff has no objection to the applicant’s request to expand the hours of operation for the restaurant located at 315 Madison Street. The extended hours will enhance the ability of the restaurant to serve neighboring residents and businesses.

Staff has retained the standard restaurant conditions and condition #17, which requires a review of the restaurant one year after approval. At that time, if there are problems with the operation of the restaurant, additional conditions may be imposed.

With these conditions, staff recommends approval of the special use permit.

III. RECOMMENDATION CONDITIONS

Staff recommends approval subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z) (SUP #1622-A)
2. Trash and garbage shall be stored inside the building or in a dumpster. (P&Z) (SUP #1622)
3. Condition deleted. (SUP #97-0185)

4. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed container which does not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of these containers. (P&Z)(SUP #97-0185)
5. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice daily and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (P&Z)(SUP #97-0185)
6. Condition deleted. (SUP #97-0185)
7. No food, beverages or other material shall be stored outside. (P&Z) (SUP #1622)
8. **CONDITION AMENDED BY STAFF:** The hours of operation of the business shall be ~~restricted from 10:30 A.M. to 10:00 P.M. Monday through Thursday, 10:30 A.M. to 10:00 P.M. on Friday, 10:30 A.M. to 10:00 P.M. on Saturday and closed on Sunday as requested by the applicant.~~ limited to 7:00 A.M. to 12:00 midnight daily. (P&Z)
9. Seating shall be provided inside for no more than 40 patrons. (P&Z) (SUP#2001-0069)
10. No outside dining facilities shall be provided on the public right-of-way. Outside dining may be provided on private property subject to a plan that is reviewed and approved by the Director of Planning and Zoning. The applicant shall ensure that pedestrian access is provided past the outdoor seating and shall clean and wash the seating area at the close of each day of operation. (P&Z) (SUP#2001-0069)
11. No live entertainment shall be provided at the restaurant. (P&Z) (SUP #97-0185)
12. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #97-0185)
13. On-premise beer and wine service is permitted. For off-premises sales, the following rules apply: Beer and wine coolers may be sold only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold. (P&Z) (SUP #97-0185)

14. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES) (SUP #97-0185)
15. No amplified sound shall be audible at the property line. (P&Z) (SUP #97-0185)
16. Condition deleted. (SUP 2001-0069)
17. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation of the permit conditions, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z)
18. **CONDITION AMENDED BY STAFF:** The applicant shall control cooking odors ~~and smoke from the property,~~ smoke and any other air pollution from operations at the site to prevent them from becoming a nuisance to neighboring properties, as determined by the Department of Health. ~~(Health)~~ (SUP #2000-0075) Transportation and Environmental Services. (T&ES)
19. **CONDITION AMENDED BY STAFF:** The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 for a security survey for the business and robbery awareness program for all employees. (Police)
20. Meals ordered before the closing hour may be served, but no new patrons may be admitted and no alcoholic beverages may be served after the closing hour, and all patrons must leave by one hour after the closing hour. (P&Z)
21. **CONDITION ADDED BY STAFF:** The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and to provide instruction preventing underage sales of alcohol. (P&Z)

22. **CONDITION ADDED BY STAFF:** The applicant shall encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. (P&Z)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Bettina Irps, Urban Planner.

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers.
- R-2 The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services.
- R-3 All loudspeakers shall be prohibited from the exterior of the building and no amplified sound shall be audible at the property line.
- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.

Code Enforcement:

- F-1 The submitted application indicates a request for 48 seats. The approved occupancy load for this business is 40 persons (customers and employees). The requested number of patron seating does not conform to the approved occupant load. The applicant shall retain the current occupant load until an application to increase the occupant load has been submitted and approved by Code Enforcement.

Health Department:

- F-1 No objections to changing the hours of operation.

Police Department:

- R-1 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business.

- R-2 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery awareness program for all employees.
- R-3 Recommend “ABC On” license only. If “ABC Off” is approved we recommend the following conditions:
1. Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.
 2. That the SUP is reviewed after one year.